



**BOARD OF ADJUSTMENT  
CITY OF SCOTTSDALE  
CITY HALL KIVA  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
JANUARY 4, 2006**

**APPROVED STUDY SESSION MINUTES**

**PRESENT:** Terry Kuhstoss, Chairman  
Carol Perica, Vice-Chairman  
Jennifer Goralski, Commissioner  
Howard Myers, Commissioner  
James Vail, Commissioner

**ABSENT:** Ernest Jones, Commissioner  
Neal Waldman, Commissioner

**STAFF PRESENT:** Tim Curtis  
Sherry Scott  
Kira Wauwie  
Greg Williams

**CALL TO ORDER**

The study session of the Scottsdale Board of Adjustment was called to order by Chair Kuhstoss at 5:36 p.m.

**ROLL CALL**

A formal roll call confirmed the Commissioners present as stated above.

**DISCUSSION OF ITEMS**

1. Administrative Items

Amendment to the Rules of Procedure to add Rule 407-Reconsiderations, which restricts the Board's ability to hear or consider reconsiderations.

In response to an inquiry by Commissioner Vail concerning wording for Option B, Tim Curtis referred the Board to page 5 of the staff packet for copies regarding reconsideration of the Amended Rules of Procedure for Rule 407.

**APPROVED 2/1/2006**

Commissioner Vail requested that election of officers be moved from the beginning of the regular session to the end of the meeting. Commissioners concurred.

2. Discussion of item(s) on the regular agenda

11-BA-2005 (Lamalfa Residence), request a Variance from Article VI. Section 6.1004.B regarding walls, fences, hedges, Article VI. Section 6.1004.C regarding accessory buildings, Article VI. Section 6.1071 regarding walls, and Article VII. Section 7.200.A regarding accessory buildings.

In response to questions by Commissioner Myers concerning the condition of and violations existing on the Lamalfa property at the time of purchase, Kira Wauwie presented an aerial site plan of the property, highlighting the structures existing at the time of purchase and the shade structures added thereafter. Ms. Wauwie confirmed that the fencing and NAOS violations did exist at the time of purchase. The NAOS violation was corrected by the present owner.

Commissioner Myers inquired as to how the violations were discovered. Ms. Wauwie reported that code enforcement staff received a call and responded to the call.

In response to further inquiry by Commissioner Myers regarding the current rules pertaining to chain link and corral fencing, Ms. Wauwie explained that corral fencing is permitted in the location of the current chain link fence. The Applicant desires keeping the existing chain link fence at this time. Ms. Wauwie committed to research fencing regulations in the Foothills Overlay Zoning District with regard to chain link fences and report back to the Board.

In response to inquiry by Commissioner Myers regarding the street plan for the area, Ms. Wauwie confirmed that there is some dedication of right-of-way along Morning Vista and Transportation staff has confirmed that is all that is needed at this time. Additional dedication is not requested at this time. In response to further inquiry by Commissioner Myers, Ms. Wauwie confirmed that the property lines do run through the mid-street of what would have been Morning Vista and that the subject lot did not give a right-of-way. Ms. Wauwie explained that the south half of the subject property is an existing dedication. Dimensions denoted in the presentation were taken from existing property lines.

Commissioner Myers noted a number of undeveloped lots to the east of the subject property. Ms. Wauwie explained that the property is undeveloped property which has access to the south. She noted two access options that are currently dedicated. Ms. Wauwie further noted that a policy document governs this area as opposed to a streets master plan.

Chair Kuhstoss requested clarification with regard to 84th Street. Ms. Wauwie noted a concept that 84th Street could come to about midpoint between Morning Vista and Dixiletta, but not further south. She noted a substantial wash and several boulder features as well as other natural features in the area that limit the potential and feasibility of connecting 84th Street.

In response to inquiry by Commissioner Myers regarding the rulings on shade structure versus buildings, Ms. Wauwie explained that shade structures require the same setbacks as a full building.

In response to prior inquiry by Commissioner Myers regarding current rules pertaining to chain link fencing, Mr. Curtis reported that there is no reference

prohibiting chain link in the Foothills overlay. It was also noted that a 3-foot chain link fence would be allowed in the area and that the existing fence is 5 feet in height.

15-BA-2005 (Scottsdale Ridge Office Suite), request a variance from Article V. Section 5.2204.E.2a and 5.2204.E.3.a regarding yard setbacks when abutting a single-family residential district.

Commissioner Goralski recused herself, and submitted a declaration of conflict of interest.

Commissioner Myers commented that the four criteria are not adequately addressed in the documentation and requested staff's interpretation. Greg Williams addressed the Board, noting that staff must attempt to remain neutral and accept the answers provided by each Applicant.

Commissioner Vail sparked a discussion concerning zoning designations of residential in areas that actually have no potential of becoming residential locations. Mr. Williams confirmed that the subject property falls within a designated residential area that is currently utilized and owned by APS. Commissioner Vail commented that the arguments presented by the Applicant are contradictory. Mr. Williams pointed out that the issues should be viewed in principal in the way that the ordinance is written, further noting that the neighboring property is designated as residential although the use is not residential and will never be residential.

Commissioner Myers noted that the request appears reasonable but the justification does not. The Board must make their decision based solely on the four criteria and the argument that is presented to justify the criteria. He opined that reasonable arguments could be put forth but such are not clearly laid out in the documentation. Sherry Scott proposed that additional facts can be presented to the Board during the regular session and noted that the Board is not limited to the justification set fourth in response to the factors in the Application. Mr. Curtis noted that the Applicant intended to demonstrate that a special circumstance applies to the surroundings of the property that warrant the variance. Commissioner Myers agreed that such is most likely the case, but opined that that is not the way the documentation is written.

## **ADJOURNMENT**

With no further business to discuss, the study session adjourned at 5:57 p.m.

Respectfully submitted,  
A/V Tonics, Inc.